

## REMARKS

Claims 1-14 and 16-45 were pending prior to this amendment. Claims 1-7, 11-14, 16-20, 28-37 and 41-45 have been allowed and claims 26 and 27 have been indicated as having allowable subject matter. Claims 8-10, 21-25 and 38-40 stand rejected. Claims 1, 4-10, 14, 18, 19, 21-29, 34, 38-40, 42 and 45 have been amended. New claims 46-49 have been added. At least in light of the above amendments and the following remarks, Applicant respectfully requests reconsideration and allowance of all claims.

### *Allowable Subject Matter*

Claims 1-7, 11-14, 16-20, 28-37 and 41-45 have been allowed.

Applicant acknowledges the allowed claims.

Dependent claims 26 and 27 have been indicated as having allowable subject matter.

Applicant acknowledges the allowable subject matter.

### *Claim Rejections – 35 U.S.C. § 112*

Claims 8-10 and 38-40 have been rejected under 35 U.S.C. § 112, first paragraph.

Claims 8-10 and 38-40 have been amended.

### *Claim Rejections – 35 U.S.C. § 102*

Claims 8-10 and 38-40 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,697,353 (Bharucha, et al.).

Claims 8-10 and 38-40 have been amended to include subject matter previously indicated as allowable with respect to allowed claims 1-7, 11-14, 16-20, 28-37 and 41-45. Thus, claims 8-10 and 38-40 should be allowed.

### *Claim Rejections – 35 U.S.C. § 103*

Claims 21-25 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Bharucha, et al. in view of U.S. Patent No. 6,614,781 (Elliot).

Claim 21 has been amended. Applicant claims instructions for identifying polsive sounds and assigning these polsive sounds a different comparative discardability than voices that are produced when a mouth end of a vocal tract is open. These polsive sounds are used for expression during a conversation, and as such, can be more important than voices to understanding a conversation. The claimed instructions thereby preserve more expression and meaning during congestion than conventional systems.

Bharucha teaches a system that assigns a different priority to periods of no speech, spurts of speech and continuous speech. *See* col. 5, lines 29-31. Since the system does not identify polsive sounds, the system assigns a same priority to polsive and non-polsive sounds. This is the opposite of the claimed invention. Thus, when a user of the Bharucha system uses a polsive sound to express himself, the polsive sound is just as likely to be discarded as voices produced with an open mouth end of the vocal tract.

Moreover, classifying discardability according to whether a sound is polsive is unobvious. Bharucha only uses a basic way of distinguishing calls, e.g. determining whether a sound represents silence, continuous speech or non-continuous speech. *See* col. 5, lines 29-31. This is completely different than analyzing a sound to determine whether a manipulation in a mouth end of the vocal tract was used to produce the sound.

In contrast, claim 21 teaches identifying a predetermined type of sound, the predetermined type of sound corresponding to an abrupt release of a complete closure in a vocal tract, the abrupt release of the complete closure allowing air particles located in a high pressure region behind the complete closure to travel to a low pressure region in front of the complete closure and towards a mouth and assigning that sound a different comparative discardability code. Thus, when a user expresses himself using a polsive sound, a representation of that polsive sound has a higher chance of being transmitted to a listener even when there is high network congestion. Claim 21 should be allowed. Claims 22-25 are dependant and should also be allowed.

***New Claims***

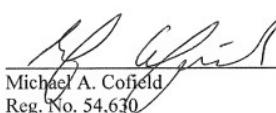
New claims 46-49 have been added. The new claims include a feature whereby packets are classified according to whether they represent sound produced by adjusting a mouth end of the vocal tract into either: a completely closed position, a partially open position or a completely open position. *See* page 10, lines 1-9.

**CONCLUSION**

For the foregoing reasons, reconsideration and allowance of all pending claims of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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